BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Madison Gas and Electric Company for Authority to Change Electric and Natural Gas Rates — Docket No. 3270-UR-114

REPLY BRIEF OF THE CITIZENS UTILITY BOARD

The Citizens Utility Board ("CUB") hereby submits its Reply Brief in the above-captioned matter. CUB addresses the issues of: 1) the offer of Madison Gas and Electric Company ("MGE" or "the Company") to refund any fuel costs collected in excess of its actually incurred fuel costs; 2) MGE's argument that forgoing a 2007 rate case is a factor the Commission should consider in establishing the Company's return on equity; and 3) the proper level of customer charges under Time of Use ("TOU") rates.

I. THE COMMISSION SHOULD ACCEPT MGE'S FUEL RULE REFUND PROPOSAL BUT NOT UNDER THE CONDITIONS PROPOSED BY THE COMPANY.

In its Initial Brief, MGE states that it would accept an order point requiring it to refund or credit electric customers for any fuel costs collected in excess of monitored fuel costs actually incurred on an annual basis with interest at MGE's short-term debt rate. (MGE Initial Brief at 4-5.) As attractive as this offer may seem, CUB opposes two of the conditions MGE has attached to its proposal: that the Commission reduce the Company's annual variance range from plus or minus 3% to plus or minus 1.5%, and that it timely approve the Company's pending fuel rules surcharge *as requested*. (MGE Initial Brief at 5.) The Commission should therefore accept MGE's refund proposal but without these two conditions. In fairness to MGE, it should also permit MGE to withdraw its refund proposal if, in fact, the utility determines upon final analysis that these two conditions are essential to its proposed order point.

Lowering the annual variance range to 1.5% comes ever closer to changing the fuel rule into an automatic pass-through of higher fuel costs. Maintaining a higher bandwidth encourages utilities to closely manage their fuel costs because rate recovery is not assured for every unanticipated cost. It also will lead to administrative efficiencies at the Commission by hopefully reducing the number of fuel cases before the PSC. The Commission has established a 2% fuel cost annual variance range for Northern States Power and Wisconsin Public Service.[1] In light of this precedent, CUB urges the Commission to establish MGE's annual variance range at no lower than 2%.

CUB also opposes MGE's attempt to tie its refund offer to the PSC's acceptance of the Company's pending fuel surcharge request in Docket No. 3720-UR-113. There, the Company has advanced a novel interpretation of the fuel rule to, in essence, decouple the setting of rates in a fuel cost proceeding from any newly determined average annual cost of fuel. Even if such an interpretation of the fuel rule is lawful (and CUB doubts that it is), adoption of MGE's proposal would open the door to fuel cost proceedings in which utilities would be free to argue that they were entitled to larger rate increases based on ever new and evolving standards of what constituted just and reasonable rates in the pending circumstances. The average annual cost of fuel serves as an anchor in fuel rule proceedings. Cutting the cable to that anchor would effectively push this Commission and customers towards uncharted seas. MGE asks too much when it requests this Commission and intervenors to accept this condition without benefit of hearing and when this proposal has actually been made in another proceeding.

[1] Findings of Fact, Conclusions of Law, Order, p. 5 (Docket No. 4220-UR-110 (September 16, 1998)); Final Decision, p. 3 (Docket No. 6690-UR-116, (December 21, 2004)).

II. MGE'S STATEMENT THAT IT WILL NOT SEEK A 2007 RATE CASE SHOULD NOT IMMUNIZE IT FROM A LOWER RETURN ON EQUITY.

MGE offers to forgo a general rate case in 2007 and suggests that its decision to do so should be a factor the Commission takes into account in establishing the Company's return on equity. (MGE Initial Brief at 11.) But MGE has taken steps to mitigate the risks it says it will incur by forgoing a 2007 rate case by: 1) requesting a step increase of $6.6 million for carrying costs associated with ERGS; 2) submitting updated fuel costs to become effective January 1, 2007; 3) making certain adjustments of amortized costs; and 4) reserving the right to seek deferrals for "significant unexpected costs." (MGE Initial Brief at 11-12.) It will also have access to fuel rule rate adjustments. In other words, MGE has already taken steps to mitigate the risks that it claims entitle it to a higher return on equity.

For these reasons, and the reasons stated in its Initial Brief, CUB urges the Commission to lower the Company's return on equity to 10.5%.

III. THE COMMISSION SHOULD LOWER CUSTOMER CHARGES FOR TIME OF USE RATES.

PSC staff member Jerry Albrecht testified that it was appropriate to eliminate the $1.00 difference in customer charges for TOU and non-TOU residential and commercial customer classes. (Tr. 264.) In contrast, MGE advocates increasing the difference in customer charges between TOU and non-TOU customers by $0.30 monthly. (MGE Initial Brief at 23.) CUB supports Staff's proposal for two reasons.

First, as a matter of policy, higher customer charges for TOU rates impose a barrier to enrolling customers in this type of load management program. Instead, the Commission should aim towards removing barriers to enrollment in alternative rate design options that help mitigate higher rates and lead to utility system benefits. MGE's proposal also runs counter to CUB's belief that, when possible and appropriate, it is best to collect higher costs for certain utility activities through a higher energy charge than a higher fixed customer charge. Increasing fixed customer charges runs counter to efforts to provide strong incentives for customers to save energy. The more the price of energy, the more the customer is rewarded for his or her adoption or participation in energy efficiency/load management programs.

Second, as a pragmatic argument, the higher costs associated with serving TOU customers are more than recovered through energy charges, a point made by Mr. Albrecht. (Tr. 272.) The average TOU customer's monthly usage is substantially more than the usage of average non-TOU customers. (*Id*.) A TOU residential customer on average uses 1,746 kWh in contrast to the 592 kWh used by non-TOU residential customers. (Ex. 32, Schedule 1.) The difference in average energy use between TOU and non-TOU commercial customers is even greater: 5,008 kWh and 1,346 kWh respectively. (*Id*.) In light of this energy usage differential, a $1.00 reduction in customer charges for TOU customers can readily be made up by a 4 cent and 8 cent per year increase for non-TOU residential and commercial customers respectively. (Tr. 273.) The Commission should adopt Staff's proposal.

IV. CONCLUSION.

For the reasons stated above, the Commission should: 1) accept MGE's fuel rule refund proposal but not under the conditions proposed by the Company; 2) give no weight to the Company's decision to forgo a 2007 rate case when setting MGE's return on equity; and 3) lower customer charges for TOU rates.

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Respectfully submitted,

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